

### REMARKS

The presently claimed invention features bone precursor compositions, and bone precursor composites that include a calcium cement that includes monobasic calcium phosphate monohydrate and beta tricalcium phosphate in a ratio by weight of about 1:2 to about 1:3.75.

#### Rejections Under 35 U.S.C. §112, second paragraph

The Examiner rejected claims 4, 15, 20, 37, 39, 42, and 48 as indefinite for using the phrase "between about." The claims have been amended to recite "about."

The Examiner rejected claims 5, 31 and 49 as indefinite for reciting "includes or is conditioned with cells." Applicants have amended these claims to recite "further comprising cells."

Claims 8 and 22 were rejected as indefinite for not having proper Markush format. Applicants have amended these claims to place them in proper Markush format.

Claims 31 and 53 were rejected as allegedly indefinite for reciting "and/or." Applicants have amended these claims to recite "or."

Claim 44 was rejected as indefinite for including certain acronyms. Applicants have amended these claims to replace acronyms with the proper names of the neutralizing agents.

#### Rejections Under 35 U.S.C. §102(b)

The Examiner rejected claims 1-10, 15, 16, 18, 19, 23-33, 35-36, 39-40, 42, 46 and 48-55 as anticipated by Bell et al. (U.S. Patent No. 5,891,558). The present application was filed as a continuation application under 37 C.F.R. §1.53(b) claiming priority from U.S. Serial No. 09/369,012, filed August 5, 1999, which in turn claims priority from U.S. Provisional Serial No. 60/095,627, filed August 7, 1998. Thus, Bell et al. (U.S. Patent No. 5,891,558; issued April 6, 1999) is not prior art under 35 U.S.C. §102(b).

The claims have been amended to specify calcium cement including monobasic calcium phosphate monohydrate and beta-tricalcium phosphate in a ratio by weight of about 1:2 to about 1:3.75. Bell et al. does not disclose a calcium cement having the combination of  $\beta$ -tricalcium

Applicant : Eugene Bell et al.  
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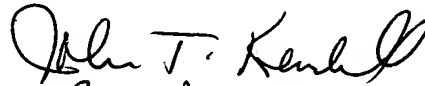
Attorney's Docket No.: 13343-016002

phosphate and calcium phosphate monobasic recited in the present claims, which require a ratio, by weight of these components of about 1:2 to about 1:3.75. Bell et al. refers to cement having 64% tricalcium phosphate and 16% calcium phosphate monobasic among other ingredients. Assuming the percentages are by weight, this is equivalent to a weight ratio of 4:1.

In view of the foregoing, Applicants request that the rejections under 35 U.S.C. §102(b) be withdrawn.

Enclosed is a \$950.00 check the Three-Month Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050, referencing attorney docket number 13343-016002.

Respectfully submitted,

  
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FOR

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